

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

v.

JOHN DOE subscriber assigned IP address  
24.62.248.230,

Defendant.

Civil Action No. 1:22-cv-11261-DJC

**PLAINTIFF'S SECOND *EX-PARTE* APPLICATION FOR EXTENSION OF TIME  
WITHIN WHICH TO EFFECTUATE SERVICE  
ON JOHN DOE DEFENDANT**

Pursuant to Fed. R. Civ. P. 4(m), Plaintiff, Strike 3 Holdings, LLC ("Plaintiff"), makes this second application for entry of an order extending the time within which to effectuate service on John Doe Defendant, and states:

1. This is a copyright infringement case against a John Doe Defendant known to Plaintiff only by an IP address. Defendant's true identity is known by their Internet service provider ("ISP").

2. On August 23, 2022, Plaintiff filed a Motion for Leave to Serve a Third-Party Subpoena Prior to a Rule 26(f) Conference ("Motion") in order to serve a third-party subpoena on Defendant's ISP to obtain the Defendant's identifying information. [CM/ECF 7].

3. On September 23, 2022, Plaintiff was granted leave to serve a third-party subpoena on Defendant's ISP to obtain the Defendant's identifying information. [ECF No. 9]. Plaintiff issued the subpoena on or about September 30, 2022 and, in accordance with the time

allowances provided to both the Defendant and ISP, expected to receive the ISP's response on or about October 31, 2022.

4. On October 14, 2022, Defendant John Doe filed a Motion to Quash Subpoena and Brief Explanation, pro se. ("Motion to Quash"). [CM/ECF 11].

5. On October 28, 2022, Plaintiff filed its Response in Opposition to Defendant's Quash Subpoena and Brief Explanation. [CM/ECF 12].

6. Pursuant to Fed. R. Civ. P. Rule 4(m), Plaintiff was originally required to effectuate service on the Defendant no later than November 2, 2022. Because Defendant's Motion to Quash was pending before the Court, at the time, on November 2, 2022, Plaintiff filed its First Motion for Extension of Time Within Which to Effectuate Service on John Doe Defendant ("First Motion for Extension"). [CM/ECF 14].

7. On November 8, 2022, the Court granted Plaintiff's First Motion for Extension, extending the deadline to effect service of process to January 1, 2023. [CM/ECF 15].

8. On December 15, 2022, the Court entered an Order denying Defendant's Motion to Quash. [CM/ECF 16].

9. Plaintiff forwarded a copy of the Court's December 15, 2022 to the ISP to obtain the subscriber's information. Plaintiff received the ISP response on January 3, 2023 and is currently conducting a further investigation to assist in determining whether the individual identified by the ISP is the appropriate defendant for this action prior to attempting to effect service of process on that individual.

10. Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Complaint on Defendant be extended an additional sixty (60) days, and thus the deadline to effect service be extended to March 4, 2023. This extension should allow Plaintiff

sufficient time to complete its further investigation, and, if a good faith basis continues to exist, to proceed against that individual (or someone else), to amend the Complaint to name the Defendant and effect service of process.

11. This application is made in good faith and not for the purpose of undue delay.

12. This is Plaintiff's second request for an extension. None of the parties will be prejudiced by the granting of this extension. On January 3, 2023, Plaintiff's counsel conferred with counsel for Defendant prior to the filing of this extension. Defendant's counsel stated that he does not oppose the granting of this extension.

WHEREFORE, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Complaint on Defendant be extended until March 4, 2023. A proposed order is attached for the Court's convenience.

Dated: January 3, 2023

Respectfully submitted,

By: /s/ Jacqueline M. James  
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**CERTIFICATE OF SERVICE AND L.R. 7.1(A)(2) STATEMENT**

Pursuant to Local Rules 5.2(b), 7.1(a)(2), and 7.1(c), I hereby certify that a true copy of the above document was electronically filed with the Clerk of the Court using CM/ECF. On January 3, 2023, Plaintiff sent a copy of the foregoing documents to Defendant's counsel prior to the filing in this matter.

By: /s/ Jacqueline M. James